

91-847

Supreme Court, U.S.
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No. _____
SUPREME COURT OF THE UNITED STATES
October Term, 1991

OFFICE OF THE CLERK

DONALD EDGAR JOHNSON AND CLASS OF PRO SE
NONLAWYER ALLEGED CONFIDENCE GAME VICTIMS,

PETITIONERS,

v.

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR,
THE ESTATE OF CARL A. JOHNSON, SR., THE LAW
FIRMS OF LANDMAN LATIMER CLINK & ROBB, CULVER
LAGUE & McNALLY, O'TOOLE STEVENS JOHNSON
KNOWLTON & ROLF, O'TOOLE JOHNSON POTTER ROLF
GRAFTON & EKLUND, P.C., THE STATE OF MICHIGAN,
And ROBERT J. DANHOF, Michigan Court Of Appeals
Chief Judge, Jointly And Severally,

RESPONDENTS.

Petition For Writ Of Certiorari To The
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR CERTIORARI

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QUESTIONS PRESENTED

I. WHETHER IT WAS CRUEL, UNUSUAL, A BURDEN ON THE COURTS, AND UNCONSTITUTIONAL FOR A RESIDENT COPYRIGHTEE-PRO SE NONLAWYER CONFIDENCE GAME VICTIM OF FAMILY FIDUCIARIES, THEIR LAW FIRMS, AND THE STATE TO BE 1973-1989 DISCRIMINATED AGAINST AND DENIED THE STATE'S CRIMINAL ACTION PLUS ITS CIVIL ACTION'S "FULL AND FAIR OPPORTUNITY" TO LITIGATE HIS CLAIMS AND ISSUES?

II. WHETHER ALL SUCH MICHIGAN PRO SE NONLAWYER CONFIDENCE GAME VICTIMS WOULD HAVE A COMMON INTEREST IN PREVENTING SUCH DISCRIMINATION AND THE 1990 CIVIL RIGHTS ACTION BROUGHT IN DISTRICT COURT CAN BE MAINTAINABLE AS A CLASS ACTION AS TO THE QUESTION OF CARRYING OUT A CONSPIRACY TO BOTH DENY A CRIMINAL ACTION AND WITHHOLD EVIDENCE FROM A CIVIL ACTION'S SECOND COURT APPELLATE REVIEW IMPOSED BY THE DEFENDANTS?

III. WHETHER MICHIGAN COURT RULE 2.612(C)(2)(3),
F/K/A GCR 528.3, VIOLATED AMENDMENT 14 BY
DENYING EQUAL PROTECTION OF THE LAWS WHERE
IT 1983-1989 AUTHORIZED CERTAIN "RELIEF FROM
JUDGMENT" LITIGANTS, BUT NOT OTHERS, TO RECEIVE
TIMELY EVIDENTIARY HEARINGS FOR DETERMINING
IF THE FRAUDS EXISTED THAT ALLEGEDLY PROCURED
AND LONGTIME PROLONGED AN ERRONEOUS DISMISSAL
JUDGMENT?

IV. WHETHER THIS COPYRIGHTEE-PRO SE NONLAWYER'S
1990 "WITH ORIGINAL STATE TRIAL COURT
PREPONDERANCE OF EVIDENCE" ORIGINAL CIVIL RIGHTS
CLASS ACTION ALLEGING DEFENDANTS' 25 YEARS
CONTINUING CHAIN OF FRAUDS UPON PLAINTIFF, THE
COURTS, AND THE UNITED STATES -- INCLUDING
16 YEARS' INTERFERING WITH REASONABLE ACCESS,
DUE PROCESS, AND EQUAL PROTECTION -- SHALL BE
FURTHER DISCRIMINATED AGAINST, DENIED
DISCOVERIES PLUS A "FULL AND FAIR OPPORTUNITY"
TO LITIGATE NEVER-BEFORE-LITIGATED 1990 CLAIMS
AND ISSUES, AND SECRETLY-FROM-THE-PEOPLE
DISMISSED WITH PREJUDICE ON GROUNDS OF RES
JUDICATA, FAILURE TO STATE A CLAIM, AND BECAUSE
HE "UNDOUBTEDLY CAN PROVE NO SET OF FACTS IN
SUPPORT OF CLAIMS THAT WOULD ENTITLE HIM TO
RELIEF"?

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REFERENCE TO REPORTS OF OPINIONS

No official or unofficial reports of opinions were delivered to petitioner's knowledge.

THE GROUNDS ON WHICH JURISDICTION OF THIS COURT IS INVOKED

The date of the entry of the judgment sought to be reviewed was 7/29/91.

The date denying a timely Petition for Rehearing was 9/27/91.

The statutory provisions believed to confer on this Court jurisdiction to review the judgment in question by writ of certiorari are 28 USCS § 1254(1) and 28 USCS § 2101(c)(f).

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree." 28 USCS § 1254(1).

CONSTITUTIONAL PROVISIONS AND REGULATIONS INVOLVED

"Congress shall make no law * * * respecting the right of the people * * * to petition the Government for a redress of grievances."
Const.Amend. 1.

"No person shall * * * be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." Const. Amend. 5.

"All persons born * * * in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." Const. Amend. 14.

"If two or more persons in any State * * * conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws; * * * If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons with such State or Territory from giving or securing to all persons with such State or Territory

the equal protection of the laws * * * whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators." 42 USCS § 1985(2)(3).

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 USC § 1331.

"A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third party claim shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it." FedRulesCiv Proc 8(a)(1).

"No person shall be denied the equal protection of the laws." Mich. 1963 Const. Art. 1 § 2.

"MCR 2.612 RELIEF FROM JUDGMENT OR ORDER * * * (C) Grounds for Relief From Judgment.

(1) On motion and on just terms, the court may relieve a party or the legal representative of a party from a final judgment, order, or proceeding on the following grounds:

(a) Mistake, inadvertence, surprise, or excusable neglect,

(b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under MCR 2.611(B).

(c) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.

(d) The judgment is void.

(e) The judgment has been satisfied, released, or discharged; a prior judgment on which it is based has been reversed or otherwise vacated; or it is no longer equitable that the judgment should have prospective application.

(f) Any other reason justifying relief from the operation of the judgment.

(2) The motion must be made within a reasonable time, and, for the grounds stated in subrules(C)(1)(a),(b), and (c), within one year after the judgment, order, or proceeding was entered or taken. A motion under this subrule does not affect the finality of a judgment or suspend its operation.

(3) This subrule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding; to grant relief to a defendant not actually personally notified as provided in subrule (B); or to set aside a judgment for fraud on the court." Mich.Ct.Rule 2.612(C) f/k/a GCR 1963, 528.3.

"Appeals to the Court of Appeals are heard on the original record." Mich.Ct.Rule 7.210(A).

"MCL § 750.218. Any person who, with intent to defraud or cheat, shall designedly, by color of any false token or writing or by false or bogus check or other written, printed or engraved instruments, by spurious coin or metal in the similtude of coin, or by any other false pretense, cause any person to grant, convey, assign, demise, lease or mortgage any land or interest in land, or obtain the signature of any

person to any written instrument, the making whereof would be punishable as forgery, or obtain from any person any money or personal property or the use of any instrument, facility or article or other valuable thing or service, or by means of any false weights or measures sell or dispose of a less amount of land or interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of, shall be of the value of \$100.00 or less, shall be guilty of a misdemeanor; and if such land, interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of shall be guilty of a felony, punishable by imprisonment in the State prison not more than 10 years or by a fine of not more than \$5,000." Mich. Compiled Laws § 750.218.

STATEMENT OF THE CASE

A U.S. court of appeals has rendered a decision in conflict with its own and this Court's decisions regarding application of res judicata to State civil case judgments issued before "full and fair opportunities" to litigate the claims and issues were provided.

"The concept of collateral estoppel cannot apply when the party against whom the earlier decision is asserted did not have a 'full and fair opportunity' to litigate that issue

in the earlier case. * * * The Restatement of Judgments now speaks of res judicata as 'claim preclusion' and collateral estoppel as 'issue preclusion.' * * * Some courts and commentators use 'res judicata' as generally meaning both forms of preclusion." Allen v. McCurry (1980) 66 LEd2d 308,313.

In a 1990-filed district court civil rights "with original State trial court evidence received" class action against the 9 defendants, pro se nonlawyers complain that it was cruel, unusual, and a violation of Amendments 1, 5, and 14 for dishonest family fiduciaries, their 2-that-became-4 law-breaking conflicting debtor-creditor interests law firms, the prejudicial-to-undue influence State, and its non-judicially-involved "beholden-to-defendant law firm" Court of Appeals Chief Judge to act in concert in 1964-1973 using a continuing chain of frauds upon a resident copyrightee-nonlawyer, the courts, and the United States to lock him into unlawful agreements, solicit his total properties to purchase stock in a Michigan nightclub/phono records corporation,

steal title to his KANDY TAPES & RECORDS CORP. solely-owned/copyrighted corporate assets by substituting "And" for "&" during transfer from Indiana to Michigan, and fail to form the promised Michigan corporation (a Confidence Game) for taking his total substantial worldwide private properties (including 100 hours weekly labor for 5½ years) for private and public use with no compensation; -- then 1973-1989 continuing that chain of frauds for denying a State criminal action, discriminating against him for choosing to represent himself, and procuring-prolonging his civil action's county trial court erroneous 1974 dismissal judgment of no cause for action against his 3 family joint venturer partners by interfering with his civil rights of reasonable access-due process-equal protection (preventing a "full and fair opportunity" to litigate) that included withholding his preponderance of evidence from a second State/Federal court's appellate review.

The 1964-1991 Cruel and Unusual Injustice:

Between 1964 and 1973, plaintiff confided in, trusted, and relied on defendants father, 2 brothers, their 2 law firms, and the State concerning securing/investing of his **total** private properties and liberty interests. But defendants locked him into an unlawful agreement (as if his father and 2 brothers were short term money lenders to him when they were actually on a long term joint venture with him) and solicited his purchasing (with his private properties) stock in a corporation never formed so that he became a severe victim of their Confidence Game and ended up on public welfare which, without a hearing, arranged the loss of his liberty interests (his 10 years full custody 2 minor children) to his 1954 wife, Wanda, who had deserted the marriage and filed a 1962 fraud-on-Pennsylvania courts divorce that plaintiff was the deserter (a contradiction to his Michigan trial court preponderance of evidence).

Between 1973 and 1989, neither the Michigan or Federal governments would provide a criminal action. And in pursuing a State civil action, plaintiff chose to represent himself (with an assistant attorney) because, after expensive research, he could find no competent lawyer who he could trust to seek just compensation in the sensitive matter where opposing counsel represented powerful news media which could make or break lawyers and elected judges in a State prejudicial to unduly influential law firms. Plaintiff alleges that is was cruel, unusual, and unconstitutional for dishonest family fiduciaries, their 2-that-became-4 conflicting interests law firms, the prejudicial against pro se nonlawyers State, and its "beholden-to-defendant-law firm" Court of Appeals Chief Judge to 1964-1973 take a resident nonlawyer's total private/copyrighted properties plus substantial U.S. Government properties for private and public use without any compensation by way of a Confidence Game; then

1973-1989 deny a State criminal action while procuring and 15-years-prolonging county trial court's erroneous 1974 dismissal judgment of no cause for civil action by discriminating against the pro se nonlawyer plaintiff and interfering with his civil rights of reasonable access-due process-equal protection (preventing a "full and fair opportunity" to litigate) by withholding his preponderance of evidence from a second court's appellate review via a continuing chain of frauds upon him, the courts, and the United States. He alleges that his 1990 civil rights action brought in District Court can be maintainable as a class (of pro se nonlawyer Confidence Game victims) action as to the question of carrying out a conspiracy to both deny a criminal action and withhold the evidence from a civil action's second court appellate review (in violation of Amendments 1, 5, and 14) imposed by the defendants. And he alleges that Michigan's "Relief From Judgment" court rule violated Amendment 14

by denying equal protection of the laws where it authorized some, but not all, litigants to receive timely evidentiary hearings for proving the existance of continuing frauds on the courts that allegedly procured and longtime prolonged an erroneous judgment.

Characterizations of Relevant Michigan Decisions

1973-1989: The State can't afford to provide a criminal action in this matter. (By Michigan Attorney General Kelley).

12/9/74: The pro se nonlawyer didn't prove the allegations in his complaint. His civil action is dismissed on ground of no cause for action. He is not provided materials necessary for reasonable timely access to an appeal of right because his #2 and 1972-wife, Tex, (a 1964-1970 nightclub unpaid creditor represented by defendant law firm) appears financially capable. (By county circuit court).

7/2/75: The plaintiff has failed to persuade the Court that the question presented should be reviewed by this Court. (By Michigan

Supreme Court).

1976-1978: The 1975-divorced and indigent-on-public-workfare plaintiff shall be allowed to piecemeal file in trial court the full \$5,000 transcript of proceedings as a prerequisite to seeking leave for a delayed appeal of right. (By Michigan Court of Appeals).

5/3/83-6/20/86: Defendants' counsel is not unqualified; the pro se nonlawyer plaintiff shall not have an evidentiary hearing for determining if specific frauds on the courts existed that allegedly procured and 8-years-prolonged the 1974 dismissal judgment; the 1974 dismissal was not prolonged by frauds upon the courts; plaintiff shall not have a partial new trial by jury; he shall not have an 8-years-delayed appeal of right of the 1974 dismissal even though he bootstrapped himself off welfare and piecemeal-properly-filed the \$5,000 transcript; only the Prosecuting Attorney, not D. Johnson, can file a criminal action; plaintiff failed to state a claim upon

which relief can be granted; he shall remove all evidence from the record before it is ever seen by a second court; he shall file no more papers in the matter; and Muskegon County Circuit Court Files 73-C7432 CK and 86-21207 CZ are consolidated and dismissed with prejudice. (By county circuit trial court and the "Danhof" Michigan Court of Appeals).

4/28/87: The State Court of Appeals Chief Judge Danhof (who was beholden to defendant "news media" law firm and non-judicially involved) has personally intervened to prevent pro se nonlawyer plaintiff's preponderance of 1973-1982 admitted evidence from being returned to the record for being seen by a second (appellate) court. (By Danhof Court of Appeals).

5/20/87: Chief Judge Danhoff is not unqualified. (By Danhof Court of Appeals).

4/25/88: Pro se nonlawyer's claim against defendant father's estate was disposed of by the Danhof Court of Appeals 3/3/88 Judgment

of no genuine issue of material fact that affirmed county circuit court's 12/9/74 and 6/20/86 dismissals for failure to state a claim. And plaintiff's brothers and defendant law firms shall receive over 75%. (By county probate court).

6/5/89: Judge Danhof personally denies a motion to remand for a first-ever evidentiary hearing regarding the 1983-1986 fraud-on-courts claim concerning validity of plaintiff's 1986 claim against alleged joint venture partner father's estate. (By Danhof Court of Appeals).

7/7/89: The Danhof opinion affirms county probate court's denial of estate claim and closing of defendant father's estate. (By Danhof Court of Appeals).

2/2/89-11/29/89: Applications for leave to appeal Michigan Court of Appeals decisions is DENIED, because "we are not persuaded that the questions presented should be reviewed by this court". (By Michigan Supreme Court).

The Related 1975-1989 Federal Interlocutory Decisions.

During 1975-1989 interlocutory pleadings against non-State defendants to federal courts, no federal judge came down on side of the pro se nonlawyer. Only a U.S. Supreme Court clerk's letter to Michigan Court of Appeals influenced a two-years-delayed 1986 filing of the required second "independent" portion of the 1983-1989 "Relief From 1974 Judgment" cause.

The 1990 Original Civil Rights Action

In 1990, the district court jurisdiction was sought on the basis of 28 USC 1331, FRCP 8(a)(1), 42 USCS § 1985(2)(3), and Const. Amends. 1, 5, and 14. After sufficient and substantial original State trial court evidence was properly presented and received by the Magistrate during and after a hearing to disqualify defendant conflicting debtor-creditor interests law firms from representing the 3 family joint venture debtor defendants, the Court's Judge mistakenly mistook defendants' dossier of "eighty orders issued by seven different courts" for plaintiff's evidence,

denied pretrial discoveries, granted all of defendants' motions to dismiss, deprived plaintiffs of a right to a jury determination based upon their evidence, denied all of plaintiffs' motions to proceed towards a trial by jury, ordered plaintiffs to file no more papers in the matter, and dismissed the 9-defendants civil rights class action with prejudice on the ground that res judicata prohibited the 1990 collateral attack on that 1974 dismissal of the "1-plaintiff-3-defendants" contract/conversion "different litigants-different claims and issues" civil action (plus the subsequent 1974-1989 judgments related to that Muskegon County Circuit Court File No. 73 7432-CK judgment) where the trial court evidence was kept from being seen or reviewed by a second court between 1974 and 1989.

The U.S. court of appeals also mistakenly took defendants' dossier of evidence for plaintiffs' evidence and, without first providing a "full and fair opportunity" to

litigate the never-litigated 1990 claims and issues, affirmed district court's decision on grounds that the district court determined that the pro se nonlawyer plaintiff's 1990 claims "were barred by res judicata and dismissed the case for failure to state a claim" and "we determine that Johnson undoubtedly can prove no set of facts in support of his claims that would entitle him to relief". A "Suggestion For Rehearing En Banc And PETITION FOR REHEARING" was denied.

AND THE NINE DEFENDANTS GOT AWAY WITH THEIR 1964-1991 TAKING OF THEIR NONLAWYER CONFIDENCE GAME VICTIM'S **TOTAL** 1922-1973-ACQUIRED PRIVATE PROPERTIES AND LIBERTY INTERESTS UNDER FALSE PRETENSES IN VIOLATION OF THE FEDERAL LAWS AND CONSTITUTION -- WITHOUT AS MUCH AS A SLAP ON THE WRIST!

ARGUMENT FOR ALLOWANCE OF THE WRIT

To this date, 1991, only one judge has ever seen and reviewed plaintiff's preponderance of original evidence which proves the existance of the 1964-1989 continuing chain of frauds upon the plaintiff, the courts, and the United States: the 1974 county trial judge, John H. Piercey, now deceased. That evidence sits in either the district court or the U.S. Court of Appeals at this very moment. And that evidence is positive proof of defendant Richard Gordon Johnson's 1964-65 lies and 1974 purjury at the very heart of the nine defendants' cruel, unusual, and unconstitutional acts! A jury can easily issue a verdict in plaintiff's favor based upon the genuine authentic evidence already received by the district court's Magistrate which includes defendant Richard's and plaintiff's signatures on the 1964 nightclub checking account bank signature card plus cancelled checks and bank statements showing

the joint nightclub purchase BEFORE the unlawful defendant conflicting interests law firm-drafted 2/9/65 Trust agreement stating that plaintiff solely purchased the nightclub from a nonjoint account. See the plaintiffs-filed 725-pages 5/28/91 Joint Appendix. The following quotes pages vii to x:

"11/5/64. Sun Agency receipt for \$1,200 on nightclub C land, building and licenses: \$1,000 from Richard-controlled pooled monies and \$200 from plaintiff's cash on hand, p 424. * * *

12/18/64. PLAINTIFF: Plaintiff and Richard put \$12,000 into Musikist nightclub joint checking account, p 437 * * *

1/13/65. The actual Musikist joint checking account check 107 for \$3,000 payment for nightclub C liquor license with 2 signatures, p 462,

1/13/65. The actual receipt that realtor Mark traded "Donald E. & RICHARD JOHNSON" for said \$3,000, p 580.

2/9/65. The actual invalid-for-want-of-consideration erroneous defendant LANDMAN LAW FIRM-DRAFTED 2/9/65 Hackley bank Trust (unlawful) Agreement, p 476." * * *

4/15/65 . . . Partial proof that the 3 Johnsons defendants retained the defendant law firms to 2/9/65 and 4/15/65 prepare, approve, and 1965-1974 possess UNLAWFUL AGREEMENTS as if the 3 Johnsons were money lenders with a valid \$20,600 note/mortgage when they were really joint venturers WITHOUT a valid \$20,600 note/mortgage on

the nightclub. (518,557-561-Appx), p 566."

Moreover, if ever there was a case for this Court's ruling that the Constitution ensures pro se nonlawyer Confidence Game victims of fiduciaries, their lawyers, and the State of a "full and fair opportunity" for litigating their claims and issues without discrimination, this is it.

Michigan's Court Rule 2.612(C) should be amended: Add to (C)(2): A motion after one year and an evidentiary hearing shall be allowed where there are sworn allegations of procuring and prolonging a judgment by a continuing chain of frauds upon the courts. And add to (C)(3): (a) An evidentiary hearing shall be provided for determining if frauds existed where there are sworn allegations of procuring and prolonging a judgment by a continuing chain of frauds upon the courts. See 4/8/91 Brief for Appellant, p 28.

And this petition should be granted so that the judgment of the U.S. court of appeals

can be vacated for this cause to be remanded to the district court for further proceedings towards a jury trial consistent with this Court's opinion.

Respectfully submitted,

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Dated: November 22, 1991.

APPENDIX

I. The U.S. court of appeals Order and Opinion
sought to be reviewed:

"No. 91-1160
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DONALD EDGAR JOHNSON,
Plaintiff-Appellant,
v.

FILED JUL 29 1991
LEONARD GREEN, Clerk

RICHARD GORDON JOHNSON; CARL
ALFRED JOHNSON, JR.; THE ESTATE
OF CARL A. JOHNSON, SR.; THE LAW
FIRM PARTNERSHIP OF LANDMAN,
LATIMER, CLINK AND ROBB; CULVER,
LAGUE AND McNALLY; O'TOOLE,
STEVENS, JOHNSON, KNOWLTON AND
ROLF; STATE OF MICHIGAN; O'TOOLE,
JOHNSON, POTTER, ROLF, GRAFTON
AND EKLUND, P.C.; ROBERT J.
DANHOF, Michigan Court of Appeals
Chief Judge,

O R D E R

Defendants-Appellees.

NOT RECOMMENDED FOR FULL TEXT PUBLICATION
Sixth Circuit Rule 24 limits citation
to specific situations. Please see
Rule 24 before citing in a proceeding
in a court in the Sixth Circuit. If
cited, a copy must be served on other
parties and the Court.

This notice is to be prominently displayed
if this decision is reproduced.

BEFORE: KEITH and NORRIS, Circuit Judges,
and WEBER, District Judge.*

Donald Edgar Johnson, a pro se Michigan
citizen, appeals the district court's judgment
dismissing his action filed pursuant to 42

U.S.C. § 1985 for failure to state a claim. This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Seeking monetary relief, Johnson sued the estate of his father, his brothers, several law firms, and a state court judge. Johnson alleged that the defendants had conspired against him during various state and federal court proceedings. The district court determined that Johnson's claims were barred by res judicata and dismissed the case for failure to state a claim. Johnson has filed a timely appeal.

Upon review, we determine that the district court properly dismissed Johnson's case for failure to state a claim. Construing the complaint in the light most favorable to Johnson, and accepting all the factual allegations as true, we determine that Johnson

undoubtedly can prove no set of facts in support of his claims that would entitle him to relief. Meador v. Cabinet for Human Resources, 902 F.2d 474, 475 (6th Cir.), cert. denied, 111 S. Ct. 182 (1990).

Accordingly, we affirm the judgment for the reasons set forth in the district court's judgment filed on December 18, 1990. Rule 9(b)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT
/s/ Leonard Green, Clerk
*The Honorable Herman J. Weber, U.S. District Judge for the Southern District of Ohio, sitting by designation."

II. The district court's Judgment and Opinion:

A. The Judgment:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED 90 DEC 18 AM 9:12
C.DUKE HYNEK, CLERK
File No.

DONALD EDGAR JOHNSON, 1:90-CV-175
Plaintiff, Hon. Benjamin F. Gibson
v.
RICHARD GORDON JOHNSON et al., JUDGMENT
Defendants.

At a session of the Court held in and for said District and Division, in the City

of Grand Rapids, Michigan, this 18th day of December, 1990.

PRESENT: HON. BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE

In accordance with the Opinion dated December 18, 1990, IT IS HEREBY ORDERED that the defendants' motions to dismiss are GRANTED and the plaintiff's complaint is DISMISSED with prejudice.

IT IS FURTHER ORDERED that all motions filed by the plaintiff are DENIED.

IT IS FURTHER ORDERED that the Clerk of the United States District Court for the Western District of Michigan is ENJOINED from accepting from the plaintiff any pleadings or documents seeking to collaterally attack the judgment entered by the Muskegon County Circuit Court in File No. 73-7432-CK.

IT IS FURTHER ORDERED that the plaintiff is ENJOINED from filing any pleadings or documents seeking to collaterally attack the judgment entered by the Muskegon County Circuit Court in File No. 73-7432-CK. Failure to comply

with this Order on the part of the plaintiff may result in a finding that he is in contempt of this Court.

IT IS SO ORDERED.

/s/BENJAMIN F. GIBSON, U.S. DISTRICT JUDGE"

B. The Opinion:

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED 90 DEC 18 AM 9:12

C. DUKE HYNEK, CLERK

DONALD EDGAR JOHNSON,
Plaintiff,

File No. 1:90-CV-175

Hon. Benjamin F. Gibson

v.
RICHARD GORDON JOHNSON et al., OPINION
Defendants.

This civil rights action alleging a violation of Title 42 United States Code Section 1985 is the latest chapter in the continuing saga of Donald Edgar Johnson's dispute with his brothers, their father, their attorneys, the State of Michigan, and Michigan Court of Appeals Judge Robert J. Danhof. Pending before the Court are various motions to dismiss this matter as well as various motions filed by

the plaintiff.

A dispute arose between the plaintiff, Donald Edgar Johnson, and his father and brothers sometime in the mid-1960s. The dispute led to litigation and a trial was held by the Muskegon County Circuit Court. A judgment adverse to the plaintiff was entered by that court on December 9, 1974. The plaintiff failed to perfect a timely appeal with the Michigan Court of Appeals. Thereafter, the plaintiff unsuccessfully petitioned the circuit court on several occasions for relief from the December 9, 1974 judgment.

Unlike most unsuccessful litigants, the plaintiff refused to accept the fact that he had lost his case. Rather, with a degree of perseverance rarely seen in even pro se litigants, he has sought to collaterally attack the merits of the circuit court judgment in a number of forums.

The plaintiff, apparently to support the merits of this action, has compiled for the

court what appears to be all of the orders entered by this court and others in response to his quixotic attempts to have the original circuit court decision vacated.¹ This compilation reveals that numerous appeals have been presented by the plaintiff to the Michigan Supreme Court and Court of Appeals.² It also reveals that all of these appeals were summarily denied. The plaintiff's dossier also contains the denial of a petition for certiorari by the United States Supreme Court. Furthermore, it indicates that following the death of his father, a defendant in the original circuit court action, the plaintiff unsuccessfully attempted to collaterally attack the original judgment by filing a claim against the estate and appealed the dismissal of his claim without success. Finally, the dossier also indicates that this Court has rejected the plaintiff's allegations on at least three other occasions and that these decisions were affirmed by the Sixth Circuit.

All of the defendants argue that the plaintiff's latest attempt to attack the circuit court judgment is, like the previous ones, barred by the doctrine of res judicata. This doctrine "is founded upon the generally recognized public policy that there must be some end to litigation and that when one appears in court to present his case, is fully heard, and the contested issue is decided against him, he may not later renew the litigation in another court." Heiser v. Woodruff, 327 U.S. 726, 733 (1946). Thus, a judgment on the merits in a prior suit involving the same parties or their privies bars a second suit based on the same cause of action. E.G., Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394, 398 (1981). Moreover, even if a party believes that a judgment was blatantly incorrect, he may not commence a second action. Rather, he must seek appellate review of the matter.

After reviewing the pleadings in this

matter, the Court believes that the plaintiff's "civil rights" complaint is simply the latest attempt to attack the judgment entered by the circuit court back in 1974. The doctrine of res judicata prohibits such an attack. Therefore, the defendants' motions to dismiss are granted and the plaintiff's fourth amended complaint is dismissed with prejudice.

Furthermore, the Court strongly advises the plaintiff, as others have in the past, that this litigation is over and his attempts to overturn the decision of the circuit court are futile. Unfortunately, given the number of times this matter has been presented to this Court and others in the past sixteen years, the Court believes that the plaintiff will not heed this advise. Therefore, the plaintiff will be enjoined from submitting any further documents or pleadings regarding this matter with this Court and the Court's clerk will be enjoined from accepting such documents or pleadings from him.

/s/BENJAMIN F. GIBSON

U.S. DISTRICT JUDGE

DATED: December 18, 1990.

¹ The dossier contains eighty orders that have been issued by seven different courts.

² According to the plaintiff, one of the orders issued by the Michigan Court of Appeals permitted him to file an independent action alleging fraud upon the Court. See Mich. Ct. R. 2.612(C)(3), 7.206(B)(3). Following the entry of that order, the plaintiff filed such an action in the Muskegon County Circuit Court against his father and brothers. The trial court granted the defendants' motion for summary disposition and dismissed the complaint. The dismissal was affirmed by the Michigan Court of Appeals on appeal and the Michigan Supreme Court declined to review the case."

III. The U.S. court of appeals denial of 8/7/91

"Suggestion For Rehearing EN BANC And PETITION

FOR REHEARING":

" No. 91-1160
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DONALD EDGAR JOHNSON,	FILED SEP 27 1991
Plaintiff-Appellant,	LEONARD GREEN, Clerk
v.	
RICHARD GORDON JOHNSON, ET AL.,	<u>ORDER</u>
Defendants-Appellees	

BEFORE: KEITH and NORRIS, Circuit Judges; and
WEBER*, United States District Judge.

The court having received a petition for
rehearing en banc, and the petition having

been circulated not only to the original panel members but also to all other active judges of this court, and no judge of this court having requested a vote on the suggestion for rehearing en banc, the petition for rehearing has been referred to the original hearing panel.

The panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly, the petition is denied.

ENTERED BY ORDER OF THE COURT
/s/Leonard Green, Clerk

*Hon. Herman J. Weber sitting by designation from the Southern District of Ohio"

IV. THE 1990 4TH AMENDED COMPLAINT WHICH WAS DISMISSED WITH PREJUDICE AS IF (A) RES JUDICATA APPLIED, (B) IT FAILED TO STATE A CLAIM, AND (C) PLAINTIFF JOHNSON UNDOUBTEDLY CAN PROVE NO SET OF FACTS IN SUPPORT OF HIS CLAIMS THAT WOULD ENTITLE HIM TO RELIEF, INTER ALIA. See plaintiffs' 725-pages Joint Appendix p 183-206.

[Note: The district court judge Gibson allowed class of alleged white collar crime victims to

be subsequently changed to class of alleged
Confidence Game victims.]

"UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD EDGAR JOHNSON AND CLASS OF
ALLEGED WHITE COLLAR CRIME VICTIMS,

HON. BENJAMIN F. GIBSON

Plaintiffs,

File No. 1:90 CV 175

-vs-

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR.,
THE CARL A. JOHNSON, SR. ESTATE, THE LAW FIRMS
OF LANDMAN LATIMER CLINK & ROBB, CULVER LAGUE
& McNALLY, O'TOOLE STEVENS JOHNSON KNOWLTON
& ROLF, O'TOOLE JOHNSON POTTER ROLF GRAFTON
& EKLUND P.C., AND THE STATE OF MICHIGAN AND/OR
ITS COURT OF APPEALS' CHIEF JUDGE ROBERT J.
DANHOF, Jointly And Severally,
Defendants.

EMERGENCY PLAINTIFFS' PROPOSED
4TH AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF AND DAMAGES
FOR TAKING 1922-1973-ACQUIRED
PRIVATE PROPERTIES AND LIBERTIES
FOR PRIVATE AND PUBLIC USE
WITHOUT COMPENSATION OR 1973-1989
BASIC FUNDAMENTAL CONSTITUTIONAL
ENTITLEMENTS IN STATE COURTS

JURY TRIAL DEMANDED

DONALD EDGAR JOHNSON, In Pro Per
Attorney for plaintiffs
184 Cherry Ct - PO Box 5407
Muskegon, MI 49445
(616) 744-0747 c/o Rita * * *

The Plaintiffs, Donald Edgar Johnson in
pro per and a class of alleged white collar

crime victims, say:

1. The plaintiff in pro per Donald Edgar Johnson is a 5½-years college-trained honorably discharged 5 years world war II veteran, 49 years member of American Federation of Musicians, recording artist, composer, phono records corporation ex-president, ex-nightclub owner-operator-entertainer, citizen of the United States, and resident of the State of Michigan with his post office address of PO Box 5407, Muskegon, MICHigan 49445. That the 3 Johnson defendants are father and younger brothers of plaintiff and owners of several machine, tool, mold, and manufacturing shops/ Michigan corporations. Defendant Carl-Sr became deceased in January, 1986. Defendant Carl-Jr is an accomplished pianist. Defendant Richard was subsequently on the board of directors of the Hackley bank that 2/9/65 issued the significant "money lenders" disguise/frauds upon the courts, the United States, and plaintiff. That the "Landman", "Culver",

and "O'Toole, Stevens, et al" law firms are partnerships and the "O'Toole, Johnson, et al" law firm is a corporation. All law firms have been authorized to do business within the State of Michigan with main offices in Muskegon, Michigan. The State of Michigan is one of the United States and its 1975-to-date court of appeals chief judge, Robert J. Danhof, was a 1970+ non-judicial officer with his Muskegon law firm.

2. The plaintiff is sueing in behalf of himself and members of a class of alleged white collar crime victims discriminated against where State prosecutors declined to prosecute and state courts declined to provide non-prejudicial due process, equal/parental protection of the laws, and just compensation against undue local influence and continuing frauds upon the courts.

3. That this action raises the following question:

"WHERE DEFENDANTS ARE ALLEGED TO HAVE

CONSPIRED TO DISGUISE THE FATHER AND 2 BROTHERS
DEFENDANTS AS SHORT TERM MONEY LENDERS OR MONEY
GIVERS FOR WRONGFULLY TAKING SUBSTANTIAL PRIVATE
PROPERTIES/LIBERTIES FOR PRIVATE AND PUBLIC
USE WITHOUT COMPENSATION -- WHETHER THE STATE
OF MICHIGAN'S COUNTY TRIAL COURT'S 1974
DISMISSAL WAS PROCURED AND 15 YEARS PROLONGED
BY CONTINUING FRAUDS UPON THE STATE COURTS
WHERE ITS COURT OF APPEALS CHIEF JUDGE COMMITTED
NON-JUDICIAL AND JUDICIAL CONTINUING
CONSTITUTIONAL TORTS INCLUDING DEPRIVATION
OF BASIC FUNDAMENTAL ENTITLEMENTS OF DUE PROCESS
OF A TIMELY EVIDENTIARY HEARING TO DETERMINE
IF FRAUDS EXISTED AND AN APPEAL OF RIGHT ON
THE COMPLETE-WITH EVIDENCE RECORD OF A "3 YEARS
RELIEF FROM JUDGEMENT" ACTION FOR PLAINTIFF,
A MEMBER OF A CLASS OF ALLEGED WHITE COLLAR
CRIME VICTIMS?"

4. That this 8/20/64-11/29/89 matter
involves the Michigan Attorney General Frank
J. Kelley's and Michigan State's county's and
appellate courts' records -- all of which are

currently available for this federal court's inspection. The main items are Muskegon County Circuit Court #73-C7432 plus #86-21207, Muskegon Probate Court #86-59607, and Michigan Court of Appeals 22496, 59895, 50565, 78170, 88008, 92822, and 108452. (All applications for leave to appeal to Michigan Supreme Court were declined "because we are not persuaded that the questions presented should be reviewed by this Court"/

5. The plaintiff has filed the following copies of previous proceedings which are genuine: (a) White 1989 Petition to U.S. Supreme Court, (b) a Tan 1989 Petition to U.S. Supreme Court, and (c) "462" photocopies. (Page numbers of "462" documents are used herein). All defendants have been provided (a), (b), and (c) documents.

6. Members of the Landman and/or Culver law firms have been provided a copy of the 1973-1982 complete-with evidence record in Muskegon Circuit Court #73-C7432.

7. No judge other than the 1974 trial judge John H. Piercey (now deceased) has seen the complete-with evidence trial court record and the original plaintiff's preponderance plus defendants' ONE exhibit are in a bank vault available to this Court.

8. Plaintiff's 1974 trial was on the 5th Amended Complaint, copy attached.

9. The plaintiff filed a timely 1986 claim against the defendant Carl A. Johnson, Sr. estate, copy attached.

10. THAT BETWEEN 8/26/64 AND 4/25/88, THE 3 JOHNSONS AND 4 LAW FIRMS DEFENDANTS AND/OR THEIR AGENTS CONSPIRED AND COMMITTED SIGNIFICANT CONTINUING FRAUDS UPON THE COURTS, THE PLAINTIFF, AND THE UNITED STATES -- PROVEN BY PLAINTIFF'S PREPONDERANCE OF EVIDENCE ENTERED, THEN ORDERED REMOVED FROM SAID COUNTY CIRCUIT COURT #73 C7432 RECORD.

2/9/65 FRAUD: That Defendant Richard, Carl-Jr, and Carl-Sr were Money Lenders to plaintiff who had solely purchased and was continuing

to solely purchase the "Musikist" nightclub from a Musikist savings, not checking, account. In the Hackley Union National Bank And Trust Company, Muskegon. Drafted by Landman law firm which had its attorney Lou L. Landman on bank's board of directors. By Richard.^{1-7A,367-373}

3/8/65 FRAUD: That there were no valid federal liens on the nightclub land. In the Muskegon office of Register of Deeds. By Landman law firm's attorney V.S. Laurin, Jr.⁸

4/6/65 FRAUD: That there were no valid federal liens on the nightclub land worth being concerned about. In O'Toole law firm's attorney Albert J. Engel 1965 letter to plaintiff.⁹⁻¹¹

4/15/65 FRAUD: That Richard, Carl-Jr, and Carl-Sr gave plaintiff sole custody/control of theirs and Harry E. Gibson's \$20,600 in return for their taking possession of plaintiff's 4/15/65 bona fide promissory note-security for a first mortgage on the nightclub land. (This truth-twisting note was still

in possession of O'Toole law firm's attorney William Hipkiss during the 1974 trial and since).

4/16/65 FRAUD: That Richard, Carl-Jr, and Carl-Sr held a valid mortgage on the nightclub land. In Muskegon office of Register of Deeds. By plaintiff at direction of Richard's realtor, Anthony J. (Tony) Mark (an ex-Catholic priest).

11/22/66 FRAUD: That plaintiff was purchasing stock in a Michigan corporation to be formed with his cash/services investments as a reward for his efforts. At Richard, Carl-Jr, plaintiff realtor Mark, real Richard J. Greenwald, and attorney Charles A. Larnard, Jr. meeting at the Musikist nightclub. By Carl-Jr.^{339,340}

10/18/67 FRAUD: That plaintiff had attempted to establish a Kandy Tapes And Records Corp. board of directors with Carl-Jr. rather than a Kandy Tapes & Records Corp. board of directors. In Carl-Jr's letter to plaintiff. By Carl-Jr.^{13,15,16,339,340} (this was for O'Toole law firm-recommended Larnard And Larnard

law firm's transferring 100% plaintiff-owned Kandy Tapes & Records Corp. (Indiana-American Federation of Musicians) to Michigan and into the family nightclub/phono records joint venture).

4/6-4/9/70 FRAUD: That plaintiff was entitled to less than 7¢ on his investment dollar while Richard, Carl-Jr, and Carl-Sr were entitled to 100% on their investment dollar in a mere \$45,000, not \$180,000+, proposed nightclub corporation. At Landman law firm Culver-presided meeting to attempt incorporation of the venture.³⁴⁰⁻³⁴⁴ By Richard, Carl-Jr. and Carl-Sr.

5/20/70 FRAUDS: That the 3 Johnsons defendants, by foreclosure drafted by Landman law firm's attorney Culver, were in possession of a valid mortgage secured by a valid plaintiff's 4/15/65 \$20,600 3-years promissory note.^{17,18} In Muskegon Circuit Court Richard vs. Plaintiff #C-4921. By Richard, Carl-Jr. and Carl-Sr.^{17,18}

5/20-6/20/70 FRAUDS: That Carl-Sr would protect

plaintiff's interest in consideration of his taking possession of the 2 suits against plaintiff dba Musikist. At the nightclub by Carl-Sr. And that the O'Toole law firm's attorney William J. Hipkiss couldn't protect plaintiff's interests against Richard, Carl-Sr, and Carl-Jr in their fraudulent 5/20/70 foreclosure suit against plaintiff -- even though the O'Toole law firm had represented plaintiff, Carl-Sr, Carl-Jr, and Richard 12/4/64-5/20/70. By O'Toole law firm at its office.

7/27/70 - 1974 Trial FRAUD: That there were no federal liens on the non-land nightclub assets owed the Muskegon Coop Federal Credit Union. In the credit union's, Landman law firm's, and then-attorney Robert J. Danhof's law firm's files. By Landman and Danhof law firms, Muskegon. (This was Danhof's non-judicial tortious act in this 1964-1989 matter).

3/7/71 FRAUD: That the nightclub land was

in name of plaintiff in 1971. In Muskegon County Treasurer's Office. By Landman law firm for purpose of using plaintiff a 6th year of statute of limitations covering Landman law firm's said 3/8/65 \$25,000-\$50,000 federal tax evasion.

4/27/73 - 5/3/83 FRAUDS: THE 12 CONTINUING FRAUDS UPON THE COURTS THAT PROCURED AND 8½ YEARS PROLONGED THE 12/9/74 MUSKEGON CIRCUIT (TRIAL) COURT DISMISSAL OF PLAINTIFF'S CIVIL ACTION PER ATTACHED 5TH AMENDED COMPLAINT AGAINST THE 3 JOHNSONS DEFENDANTS. (See evidentiary detailed proofs of all 12 frauds upon the courts in said tan 1989 Petition to U.S. Supreme Court p 3-56 herein).

By 3 Johnsons and Landman law firm.³³¹⁻³⁸³

5/6/83 FRAUD UPON THE COURT: That by this date, plaintiff had exhausted the full appellate process and the trial court had no further jurisdiction of plaintiff's #73 C7432 CK civil action against the 3 Johnsons defendants. In trial court, Muskegon. By the Landman law

firm.³⁵ See tan Petition p 55.

2/10/86 - 6/20/86 FRAUDS UPON THE COURT: That plaintiff had his day in Court, the case was over, and that Richard, Carl-Jr, and Culver law firm were not trying to create any injustice for plaintiff by filing a motion to dismiss the entire matter with no compensation to plaintiff for his "total" 1922-1973 private properties/liberties taken for defendants' private and public use. In Muskegon Circuit Court by Richard, Carl-Jr, and "Culver" plus "O'Toole" law firm partnerships.

12/30/86 - 4/25/88 FRAUDS UPON THE COURT: That plaintiff's claim against the Carl-Sr estate was frivolous and invalid and plaintiff's #73-C7432 CK combined with #86-21207 CZ actions were no longer pending in any court. In Muskegon County Probate Court. By Richard, Carl-Jr, the Carl A. Johnson, Sr. estate, the Culver law firm partnership, and the O'Toole law firm corporation.^{64,65,263,264,267,286}

11. THAT BETWEEN 12/20/74 AND 10/15/89

FOR JUDGE DANHOF AND BETWEEN 7/2/75 AND 11/29/89
FOR THE STATE'S SUPREME COURT, THE STATE OF
MICHIGAN AND/OR ITS COURT OF APPEALS CHIEF
JUDGE DANHOF (WHO HAD COMMITTED 1970+ NON-
JUDICIAL TORTIOUS CONDUCT) AND/OR THEIR AGENTS,
DEPRIVED PLAINTIFF OF HIS BASIC FUNDAMENTAL
CONSTITUTIONAL ENTITLEMENTS OF DUE PROCESS,
EQUAL/PARENTAL PROTECTION OF THE LAWS, AND
JUST COMPENSATION BY WAY OF THE FOLLOWING:

12/20/74 - 1/26/83: Denial of bona fide
indigent²⁵ (See white Petition p 33a) plaintiff's
waiver/suspension of \$5,000 transcript cost,
and denial of leave for a delayed appeal of
right of the 12/9/74 dismissal¹ while pretending
that full transcripts had to be filed in court
of appeals rather than trial court and that
there was an 18 months time limit for a bona
fide indigent's seeking leave for a longtime-
delayed appeal of right after he bootstrapped
himself off public workfare and properly
piecemeal-filed the \$5,000 required full
transcript.²⁵ See white Petition p 3,13,17,1a,

2a,6a,7a,90a,10a.

9/20/84 DENIAL: Denial of leave to appeal trial court's refusal to even file court of appeals 11/29/83-required independent portion of the 5/3/83 Relief From Judgment action. See white Petition p 14,15,3a,13a.

2/4/86 DENIAL: Denial of a timely meaningful evidentiary hearing for #73-C7432 CK 5/3/83-2/4/86 "motion portion" of the 5/3/83-3/3/88 Relief From Judgment (because of frauds upon the courts) action. White Petition p 14,15,3a,14a.

2/25/87-5/6/88 DENIEALS: Denial of plaintiff's motion to compel transmission of complete-with evidence record to court of appeals. Denial of plaintiff's motion for peremptory reversal. Denial of an evidentiary hearing for 2/4/86-3/3/88 #73-C7432 CK/#86-212071 CZ "independent action portion" of 5/3/83-3/3/88 Relief From Judgment action. And denial of an appeal of right of Relief From Judgment action on complete-with evidence record. See
25a

white Petition p 17,18,4a,5a,16a-19a,20a.

6/5/89-10/13/89 DENIALS: Denials of evidentiary hearing for determining if plaintiff's 1986 claim against the Carl-Sr estate was valid and non-frivolous even in light of plaintiff's detailing which evidence would prove that the continuing frauds upon the courts existed.³⁹⁴⁻

⁴⁶⁰White Petition p 5a,20a. And denial of plaintiff's 6/21/89 emergency motion (a) that chief judge Danhof disqualify himself, and (b) that the Culver law firm partnership and the O'Toole law firm corporation become respondents-appellees.³⁸⁴⁻³⁸⁷

a. Chief Judge Danhof had a law firm with an attorney Schoener which represented the Muskegon Coop Federal Credit Union which had 1969 refinanced the Musikist nightclub's non-land assets, then lost every penny of U.S. Taxpayers' thousands of dollars invested after plaintiff was 1970 booted out of the 1964-1979 nightclub/phono records venture that was to form a Michigan corporation to include

plaintiff.

b. —Plaintiff was given the brush off whenever he complained to the appropriate State authorities including attorney General Frank J. Kelley, Muskegon County Prosecutors, State Bar, and State Courts.

c. Said court of appeals chief judge had much to gain by siding with plaintiff's opponents: Good media coverage by Landman law firm representing Booth newspapers for election and reelection to chief judge plus making points with boss-State of Michigan which could get away with taking plaintiff's and U.S. Private properties for State's public use for free. And Danhof's tortious judicial and non-judicial conduct likely pleased his political mentors' special interest group(s).

12. The jurisdiction of this federal District Court is invoked under 28 USC § 1331 and FRCP 8(a)(1) in that this 1964-1989 matter arises under the Constitution and laws of the United States.

13. The jurisdiction of this honorable court is further invokled under 42 USCS § 1985(2)(3) which authorizes an injured or deprived U.S. citizen to have an action against any one or more conspirators who interfere with civil rights for recovery of damages occasioned by such injury or deprivation.

14. The 3 Johnsons defendants were on a 1964-1979 nightclub operating-purchase/phono records producing/selling joint venture to fairly incorporate and they deliberately conspired with the defendant law firms to go down the highway disguised as money lenders to plaintiff while exhausting plaintiff's total assets/services for 5½ years, repeatedly refused to fairly incorporate, and took plaintiff's total private properties/liberties for private and public use under false pretenses with no compensation -- in violation of the federal laws and Constitution.

16. The State of Michigan and/or its officers/agents, including its court of appeals

chief judge Danhof, conspired with the 3 Johnsons defendants and the 4 law firms to perpetuate said continuing frauds upon the courts, the plaintiff, and the United States and interference with plaintiff's civil rights by depriving plaintiff of his basic fundamental Constitutional entitlements of due process, equal/parental protection of the laws, and just compensation for private properties/liberties taken for public use under color of state law and in violation of the federal laws and Constitution Amendments 1, 5, 14. Chief Judge Danhof committed both non-judicial and judicial torts in the continuous 1964-1989 chain of torts herein.

17. The U.S. District Attorney, by his silence, has declined to prosecute this sensitive matter.

18. Plaintiff and the class he represents have no plain, adequate, or complete remedy to redress the wrongs alleged and this suit is the only available means of securing relief

and long-overdue Constitutional entitlements. Plaintiff and the class he represents have been suffering, are now suffering, and will continue to suffer irreparable personal and property injury if no relief is granted against the defendants' unlawful acts and practices as set forth herein.

A F F I D A V I T

State of Michigan)
) SS
County of Muskegon)

Donald Edgar Johnson, first duly sworn,
says:

1. That he is plaintiff herein and plaintiff, appellant, petitioner, and claimant/heir in said state and federal courts proceedings against the 3 Johnson defendants including the Carl-Sr estate herein;

2. That the "462" photo copies are genuine;

3. That the white and tan 1989 Petitions to the U.S. Supreme Court, the evidential exhibits, and quotes from the State courts' records are genuine, and the facts are true;

4. That the original 1974 trial evidence is in a bank vault and copies were delivered by plaintiff to the Landman law firm for a receipt about 1982;

5. That said trial evidence has never been seen by any other judge than now-deceased trial judge, John H. Piercey, due to defendants' unlawful acts and practices as set forth herein;

6. That said evidence, along with excerpts from the records as shown in said tan Petition, proves that those continuing frauds upon the courts existed in 1983 and plaintiff has been deserving of due process of a partial new trial ever since;

7. That all defendants have copies of said white and tan Petitions plus "462" exhibits;

8. That the State Court records remain on file for this Court's inspection;

9. That defendant Richard Gordon Johnson, his realtor Anthony J. Mark, and his Landman/Culver attorney William F. McNally purjured themselves during State courts

proceedings;

10. That the above allegations of continuing Constitutional torts and interference with civil rights are with true facts;

11. That plaintiff never took full custody of the 3 Johnsons defendants' 9/64-7/70 contributions and their money lender pretense/disguise was false as was trial judge Piercey's ruling that the 3 Johnson defendants were money givers to plaintiff rather than money lenders or joint venturers;

12. That the 3 Johnsons' 2/9/65-7/27/70 false money lenders pretense continued to operate up to the moment of their wrongful appropriation of the monumental partnership assets contributed by the plaintiff re People v. Jones, 224 P2d 353,357 (1950);

13. That plaintiff has yet to learn exactly who took legal title to plaintiff's \$40,000-\$1,000,000-valued Kandy Tapes & Records Corp. assets contributed to said venture; and

4. That plaintiff has never been compensated

for any part of the venture as described on the attached 5th Amended Complaint to State courts.

Further, affiant sayeth not.

/s/ Donald Edgar Johnson

Subscribed and sworn to before me on this 9th day of May, 1990. /s/ Katherine Wansley, Notary Public, Muskegon County, Michigan. My Commission expires May 21, 1991.

WHEREFORE, Plaintiffs pray as follows:

1. That the Court advance this matter on its docket and cause this case to be in every way expedited;

2. That the Court rule that the 3 Johnson defendants' and 4 law firms' 1964-1989 continuing chain of frauds upon the courts did exist;

3. That the Court set aside the Muskegon Circuit Court 12/9/74 dismissal^{23,24} because it was procured and prolonged by continuing frauds upon the courts;

4. That the Court order the Muskegon Probate

Court #86-59607 SE, re Carl A. Johnson, Sr. estate, to immediately rescind its premature 1987-1990 distribution of the estate's assets and set aside the 4/25/88 dismissal of plaintiff's 1986 claim^{309,310,314,315} because the 1986-1988 judgments were procured and prolonged by continuing frauds upon the courts;

5. That the Court rule that the 8 defendants conspired to interfere with plaintiff's civil rights;

6. That the Court rule that the State of Michigan, and/or its officers including its court of appeals chief judge, 1973-1989 deprived plaintiff of his basic fundamental Constitutional rights of a fair trial, a reasonable timely appeal of right, a due process timely evidentiary hearing to determine if the 1974 trial court dismissal was procured and longtime prolonged by continuing frauds upon the courts, and an appeal of right of the 1983-1986 Relief From Judgment action on the due process complete-with evidence record;

7. That the Court provide a partial new trial by jury for damages;

8. That the Court urge the U.S. District Attorney to join plaintiffs' seeking relief because the United States was also "taken" by defendants' conspiracy; and

9. That the Court grant all other relief to which plaintiffs appear to be entitled.

Respectfully submitted,

/s/ DONALD EDGAR JOHNSON, In Pro Per
Attorney for Plaintiff And Class
184 Cherry Ct - PO Box 5407
Muskegon, MI 49445

Dated: May 9, 1990."

V. The Erroneous 12/9/74 State Dismissal:

"FILED 1974 DEC 9 PM 2:44

S T A T E O F M I C H I G A N
IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON
* * *

DONALD EDGAR JOHNSON,
Plaintiff,

File No. 73-7432-CK

v.
CARL ALFRED JOHNSONB, SR.,
et al,
Defendants.

J U D G M E N T

Donald Edgar Johnson
In Propria Persona

William F. McNally (P 17533)
Attorney for Defendants

At a session of said Court held in the County Building in the City of Muskegon County and State aforesaid, on the 9th day of December, 1974.

PRESENT: /S/ JOHN H. PIERCEY, CIRCUIT JUDGE

The above entitled action having come on for trial, the plaintiff having presented evidence and rested his case, the defendants having moved for Judgment at the end of plaintiff's case, the Court being fully advised in the premises, and the Court having made findings of fact and conclusions of law,

IT IS ORDERED, that defendants' Motion be and hereby is granted and Judgment of No Cause of Action be entered in favor of the Defendants, with costs and statutory attorneys fees being taxed against plaintiff, plaintiff not having proven the allegations contained in his complaint for the reasons set out in the opinion of the Court rendered in open court.

/S/ JOHN H. PIERCEY, CIRCUIT JUDGE

Countersigned: /s/ James C. Shields, Jr., Deputy Clerk.

Approved as to Form:

<u>Donald Edgar Johnson</u> Plaintiff 4984 Grand Haven Road Muskegon, Michigan 49441	/s/ <u>William F. McNally</u> William F. McNally, of LANDMAN, HATHAWAY, LATIMER, CLINK & ROBB Attorneys for Defendants 500 Hackley Bank Bldg. Muskegon, Michigan 49443
---	--

I HEREBY CERTIFY that this copy to be a true and correct copy of the original on file with the office of COUNTY CLERK. This Certified Copy VALID only When SEAL And RED SIGNAYURS Are Affixed. /s/ Margaret H. Greenwood, MUSKEGON COUNTY CLERK."

[Note: The above is typed on stationery printed on left side, "OFFICES OF LANDMAN, HATHAWAY, LATIMER, CLINK & ROBB -- MUSKEGON, GRAND HAVEN, AND FREMONT, MICHIGAN".]



JAN 6 1992

(2)

NO. 91-847
SUPREME COURT OF THE UNITED STATES
October Term, 1991

DONALD EDGAR JOHNSON AND CLASS OF PRO SE
NONLAWYER ALLEGED CONFIDENCE GAME VICTIMS,

PETITIONERS,

v.

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR,
THE ESTATE OF CARL A. JOHNSON, SR., THE LAW
FIRMS OF LANDMAN LATIMER CLINK & ROBB, CULVER
LAGUE & McNALLY, O'TOOLE STEVENS JOHNSON
KNOWLTON & ROLF, O'TOOLE JOHNSON POTTER ROLF
GRAFTON & EKLUND, P.C., THE STATE OF MICHIGAN,
And ROBERT J. DANHOF, Michigan Court Of Appeals
Chief Judge, Jointly And Severally,

RESPONDENTS.

Petition For Writ Of Certiorari To The
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITIONERS' SUPPLEMENT TO
PETITION FOR CERTIORARI

DONALD EDGAR JOHNSON, In Pro Per
Counsel for Petitioners
P.O. Box 5407
Muskegon, MI 49445
(616) 744-0747



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NOW COME DONALD EDGAR JOHNSON AND CLASS
OF PRO SE NONLAWYER ALLEGED CONFIDENCE GAME
VICTIMS, Petitioners, who supplement their
11/22/91 Petition For Certiorari pursuant to
S.C.T.R. 15:

1. The caption of this case is not "Donald
Edgar Johnson v. Richard Gordon Johnson, et
al" because it was corrected on 12/26/91 to
read "Donald Edgar Johnson, etc. v. Richard
Gordon Johnson, et al" in response to
Petitioners' emergency motion to this Court.

a. Both the district court and the U.S.
court of appeals captions, pp 1a, 3a, 5a, 10a,
erred by failing to show that the dismissed
1990 4th Amended Complaint, p 11a, was a
district court-approved and filed class action.

"6/4/90 -- PROCEEDING before Magistrate
Hugh W. Brenneman Jr.; re motion to
proceed on pltfs' proposed 4th amended
complaint (to amend complaint) [41-1]
- granted (this complaint supersedes
all others); this complaint allows
the addition of a deft - Judge Danhof;
the proposed complaint is deemed filed
as this hearing (a "law firm corp" -
O'Toole, has been added also); * * *
6/7/90 54 ORDER (1 pg) by Magistrate
Hugh W. Brenneman Jr. granting motion

to proceed on pltfs' proposed 4th amended complaint (to amend complaint) [41-1] (cc: all counsel on 6/11/90) (bah) [Entry date 06/13/90] [Edit date 06/13/90]." District Court Docket Sheet p 8. (Joint Appendix p 08 in U.S. court of appeals.)

"All parties to the proceeding in the court whose judgment is sought to be reviewed shall be deemed parties in this Court." S.Ct.R. 12.4.

"Every document must bear on the cover, in the following order, from the top of the page: * * * (4) the caption of the case as appropriate in this Court". S.Ct.R. 33.2(4). (Emphasis added).

2. Although the O'Toole law firm partnership and the O'Toole law firm corporation were parties to the proceedings in the U.S. court of appeals whose judgment is sought to be reviewed, there has yet to filed an Appearance for either party in violation of S.Ct.R. 12.4 above.

a. Said partnership, O'TOOLE STEVENS JOHNSON KNOWLTON & ROLF, and said corporation, O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, P.C., law firms are not represented by the Harold M. Street Appearance which seeks to

represent O'Toole, Johnson, Potter, Rolf & Eklund which was a non-party to the proceedings in the U.S. court of appeals:

"The Clerk will enter my appearance as Counsel of Record for Carl A. Johnson, Sr. Estate and O'Toole, Johnson, Potter, Rolf & Eklund * * * /s/ Harold M. Street". H.M. Street
12/6/91 Appearance.

b. In U.S. court of appeals proceedings, said non-party's Linda S. Kaare represented defendant O'Toole partnership plus defendant O'Toole corporation by representing defendant O'Toole corporation and claiming that the O'Toole corporation was formerly known as the O'Toole partnership.

". . . Defendants-Appellees request this Court grant the Motion to File Supplemental Appendix and enter an order to that effect. Respectfully submitted, O'TOOLE, JOHNSON, POTTER, ROLF & EKLUND - Attorneys for Defendants- Appellees O'Toole, Johnson, Potter, Rolf, Grafton & Eklund, P.C. (formerly known as O'Toole, Stevens, Johnson, Knowlton & Rolf), and the Carl A. Johnson, Sr. Estate - Dated: June 4, 1991 By /s/ Linda S. Kaare (P38866)". Motion Filed In U.S. Court Of Appeals By Defendants O'Toole Corporation, O'Toole Partnership, And Estate.

1) [But it is a fact that defendant O'Toole partnership and defendant O'Toole corporation were committing continuing frauds and conspiring while both were simultaneously 1986-1988 representing the defendant Johnson estate -- the partnership in circuit court #73-C7432 (Contract) + #86 21207 (Relief From '74 Judgment) and the corporation in probate court #86-59607 (Claim based on '74 Judgment). See Petition p 23a. That \$300,000-\$400,000 estate was distributed and its real estate sold prematurely, 1988-1991, before the outcome of Petitioner Johnson's 1986 \$500,000 (not \$1,500,000) claim against it that is contingent to the outcome of this Petition For Certiorari.]

c. The defendant Landman law firm partnership now includes part of said defendant O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, P.C. law firm corporation.

1) On 12/12/91, defendant LANDMAN LATIMER CLINK & ROBB filed its appearance in this Court with letterhead including the name Edward

A. Grafton as member of the firm.

2) But said attorney Grafton was a member of defendant O'TOOL JOHNSON POTTER ROLF GRAFTON & EDKLUND, P.C. during 12/90-9/91 U.S. court of appeals proceedings because his office and telephone were listed at the O'Toole location in the 6/91 local telephone directory:

"Grafton Edward A atty
Ofc 175 W Apple Ave Muskegon 722-1621".
6/91 TDI telephone directory.

3. Contrary to the Kohl and Street Appearances now filed in this Court, Petitioners contend that the 1964-1965 "2-that-became-4" defendant law firms that were parties to the U.S. court of of appeals proceedings whose judgment is sought to be reviewed herein are now best represented in this Court as follows:

#1-LANDMAN LATIMER CLINK & ROBB
by Steven C. Kohl;
#2-CULVER LAGUE & McNALLY
by Robert M. McNeily;
#3-O'TOOLE STEVENS JOHNSON KNOWLTON
& ROLF by Harold M. Street; and
#4-O'TOOLE JOHNSON POTTER ROLF GRAFTON
& EKLUND, P.C. by Steven C.
Kohl for Grafton plus Harold
M. Street for O'Toole, Johnson,
Potter, Rolf, and Eklund.

4. Here are additional relevant cases:

"A full and fair hearing means that 'where there are facts in dispute, full and fair consideration requires consideration by the fact-finding court, and at least the availability of meaningful appellate review by a higher state court.' O'Berry v. Wainwright, 546 F2d 1204,1213 (5th Cir) (emphasis on original), cert denied, 433 US 911, 97 S Ct 2981, 53 LEd2d 1096 (1977)." Davis v. Blackburn, (1986 5th Cir) 803 F2d 807,808. (Emphasis added).

"As a matter of federal law, res judicata principles do not apply 'where the party against whom an earlier decision is asserted did not have a full and fair opportunity to litigate the claim or issue decided by the first court.' Allen v. McCurry, 449 U.S. at 95,101, 101 S Ct at 415,418; accord Haring v. Prosise, 103 S. Ct. at 2373." Fellowship of Christ Church v. Thorburn (1985 CA6 Mich) 758 F2d 1140.

"A Federal court 'may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake'." In re Sun Valley Foods Co. (1986 CA6 Mich) 801 F2d 186.

"The right to petition the government for a redress of grievances includes the right of access to the courts; that right is also subject to due process protection in that the opportunity must be at a meaningful time in a meaningful manner. U.S.C.A. Const. Amends. 1,5." Matter of N.C. Trading (1978 Cust & Pat App) 586 F2d 221.

"When state officers in exercise or attempted exercise of their official authority, deny to any citizen equal protection of laws or deprive him of his property without due process of law, state itself does so and such official action comes within constitutional prohibitions." Douglas Park Jockey Club v. Grainger (1906 CC Ky) 146 F 414, revd on other grounds (CA6 Ky) 148 F 513.

"Pro se complaints are held to less stringent standards than formal pleadings drafted by lawyers, and allegations in pro se complaints must be taken as true and construed in favor of plaintiff." Malone v. Colyer (1983 CA6 Tenn) 1710 F2d 258.

"Before the collateral estoppel doctrine may be applied to preclude further judicial review of an issue, four basic criteria must be met:

(1) the precise issue raised in the present case must have been raised and actually litigated in the prior proceeding;

(2) determination of the issue must have been necessary to the outcome of the prior proceeding;

(3) the prior proceeding must have resulted in a final judgment on the merits; and

(4) the party against whom estoppel is sought must have had as full and fair opportunity to litigate the issue in the prior proceeding." Detroit Police Officers Ass'n v. Young (1987 CA6 Mich) 824 F2d 512, 515.

"[A]ll inmates would have common interest in preventing unconstitutional mail censorship, and civil rights action brought by plaintiff would be maintainable as class action as to question of mail censorship imposed by defendants. Preston v. Cowan (1973 DC Ky) 369 F Supp 14, affd in part and vacated in part on other grounds (CA6 Ky) 506 F2d 288.

5. Here is correction of Petition, p 5,
line 19:

"of shall be of the value of more than \$100, such person shall be guilty of a felony, punishable".

Respectfully submitted,

Dated: January 4, 1992

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